IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1104 OF 2005

Rajejirao Vithalrao Naik
Nimbalkar & Ors. ..Appellants.

Vs.

Sharadchandra Ulhasrao Naik
Nimbalkar & Ors. ..Respondents.

....

Mr.Vishwanath Talkute for the Appellants.

CORAM : DR.D.Y.CHANDRACHUD, J.

12th December, 2005.

P.C. :

Counsel appearing for the Appellants has stated before the Court that in the Appeal from Order which is pending before this Court (Appeal from Order 732 of 2003) which arose out of an order of the Trial Court injuncting the Appellants, this Court has on 12th March, 2004 directed continuance of the status quo. The Trial Court was directed to dispose of the suit in any event by the end of

December 2004. The suit has still not been disposed of. In the meantime, the Appellants took out an application for the appointment of a Receiver before the Trial Court. The Trial Court has dismissed that application. In view of the order passed by this Court directing the maintenance of the status quo by the parties, it would not have been permissible for the Learned Trial Judge to appoint a Receiver and such an order would clearly come in conflict with the order passed by this Court in the Appeal from Order. In such a case, it was only necessary and appropriate that the Appellants should apply before this Court in the pending Appeal from Order for appropriate relief or for directions. Hence, the order of the Learned Trial Judge declining to appoint a Receiver in these facts and at this stage cannot be faulted. However, it is necessary to take notice of the fact that the suit has not been disposed of inspite of the order of this Court dated 12th March, 2004. The Trial Judge shall place a report on the record of the proceedings of Appeal from Order 732 of 2003 within a period of two weeks of the communication of this order, setting out the status of the suit and the reason why the trial of the suit is not

being completed. This Appeal from Order is accordingly disposed of.